

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

JENNIFER Q.,

Claimant,

And

INLAND REGIONAL CENTER,

Service Agency.

OAH No. 2006010664

**DECISION**

Gary Brozio, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California, on May 31, 2006.

Vince Toms, Senior Consumer Services Representative represented the Inland Regional Center (IRC).

Enriqueta V., Claimant's mother, represented Jennifer Q. (Claimant). Claimant was not present.

The matter was submitted May 31, 2006.

**ISSUE**

IRC evaluated Claimant in November and December 2005 and found that Claimant was not developmentally disabled under the Lanterman Act. A few months later, Claimant's mother asked for a reassessment because she was dissatisfied with IRC's findings. Does IRC have a legal obligation to reassess Claimant under these circumstances?

## FACTUAL FINDINGS

1. Claimant is three-and-one-half years old. She lives in Chino with her mother and three siblings. Two of her siblings are enrolled in special education classes. There is a history of mental retardation on the maternal side of the family.
2. When she was slightly over two years old, Claimant drank a bottle of cockroach poison and nearly died. The long-term effects of this unfortunate incident are uncertain. Claimant also has asthma.
3. IRC fully evaluated Claimant in late 2005 including a social assessment in November 2005 and a medical and psychological evaluations in December 2005. Dr. Pean Lei, Ph.D., conducted the psychological assessment. Dr. Lei found that Claimant scored solidly in the low average range on the WIPPSI test. Dr. Lei placed Claimant's full scale IQ score at 83. Dr. Lei recommended reevaluation if Claimant's *cognitive development deteriorated in the future*. Accordingly, on December 12, 2005, the diagnostic team determined that Claimant did not have a developmental disability (i.e., mental retardation or a similar condition). The team recommended medical and dental care, an evaluation for special education services, speech and language services, and social-skills training. These services are primarily of an educational nature.
4. On February 28, 2006, Claimant's mother met with IRC staff to discuss her request for reassessment. Claimant's mother believed Claimant was mentally retarded or that she had a similar condition. Claimant's mother represented that the Chino Unified School District had performed a Psycho-Educational Report, and that she personally had found two discrepancies with Dr. Lei's report. She represented that she would forward to IRC (1) the school district's report, and (2) a copy of Dr. Lei's report with her notations concerning the discrepancies. IRC represented that they would perform a reassessment when they received these documents.
5. Claimant's mother did not forward the documents. Consequently, IRC did not perform a reevaluation. Claimant's mother requested a hearing.
6. At the hearing, Mary Joseph-Bacon testified that she was the Program Manager of Intake and Assessment for IRC. She explained that IRC never "shut doors on anyone"; however, reassessments were costly and could not be performed absent "new evidence" indicating that a reassessment was necessary. The new evidence could be outside reports from governmental entities, school districts, or private sources. In cases like Claimant's, the most likely source of credible new evidence would be school records showing a widening gap in Claimant's school performance in comparison to her peers. Ms. Joseph-Bacon also explained that IRC did not typically provide assessments where the school district was obligated to perform one, especially when the child's primary needs were educational. That was the case here. She believed that reassessment was not "appropriate" at this time. Claimant was not mentally retarded, and her need for special education services had to be addressed through the school district.

Comment [JA1]: Is this name spelled correctly?

7. Claimant's mother testified that Claimant had *not* been evaluated by the school district. She presented no new medical or psychological evaluations. She presented no evidence of changes in Claimant's symptomology. She stated that she was worried about her daughter's welfare, and that she was overwhelmed with responsibilities.

### LEGAL CONCLUSIONS

1. IRC complied with the provisions of the Lanterman Act. IRC performed the initial intake required by Welfare and Institutions Code section 4642. IRC performed the assessment required by Welfare and Institutions Code section 4643. IRC determined that Claimant was not eligible for regional center services because she did not have a developmental disability as defined by Welfare and Institutions Code 4512, subdivision (a).

2. It was Claimant's burden to show that IRC's determination was faulty, that IRC's assessment was inadequate, or new evidence warranted a reassessment. (Evid. Code, § 115.) No relevant evidence was presented to support a reassessment. Nothing remotely undermined IRC's eligibility determination.

3. The Lanterman Act does not specifically state when a reassessment must be performed. Nevertheless, the Act mandates that regional centers be cost effective. (Welf. & Inst. Code, § 4640.7, subd. (b).) It also prohibits regional centers from supplanting the budget of other agencies that have an obligation to provide services, including school districts. (See Welf. & Inst. Code, §§ 4644, subd (a); 4648, subd. (a); 4659, subd. (a) (1).) These general legal obligations fully support IRC's decision to deny reassessment at this time, which would be a waste of time and money and would serve no purpose other than to reconfirm the existing findings. Further, the school district is now obligated to perform an assessment for educational purposes. Finally, the school district is obligated to provide Claimant with all educational services, and these are the only non-medical services presently identified as being necessary.

4. IRC has repeatedly stated that it was not "closing the door" on Claimant. Claimant will be entitled to a reassessment if Claimant's cognitive development deteriorates in the future. The Lanterman Act requires nothing more.

### NOTICE

This is the final administrative decision. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within ninety days.

### ORDER

Claimant's present request for reassessment is denied. Claimant will be entitled to a reassessment if Claimant's cognitive development deteriorates in the future.

DATED: \_\_\_\_\_

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GARY BROZIO  
Administrative Law Judge  
Office of Administrative Hearings